

Ayesha Rector

From: Yiw Leong Tan <yltan@shakeysinternational.com>
Sent: Friday, May 31, 2024 7:00 AM
To: Guy Koren
Subject: Potato Corner USA: Notice of Termination of License – EFFECTIVE IMMEDIATELY
Attachments: Notice - 31 May 2024_signed.pdf

Importance: High

Dear Guy,

Please see attached the letter from Vic which I am sending on his behalf.

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SHAKY'S PIZZA ASIA VENTURES INC.

May 31, 2024 (Pacific Standard Time)
 June 1, 2024 (Philippine Standard Time)

VIA EMAIL

Mr. Guy Koren
 President / Managing Partner
 PCJV USA, LLC and PCI Trading, LLC
 8657 Hayden Place
 Culver City, CA 90232
 Email: guy@potatocornerusa.com

Re: Notice of Termination of License – EFFECTIVE IMMEDIATELY

Dear Mr. Koren:

Reference is made to all intellectual property, proprietary information, and other assets arising from the Potato Corner, including: all registered and unregistered trademarks (including, but not limited to marks registered with the United States Patent and Trademark Office, Reg. Nos. 5900257 and 3760041), service marks, trade names, copyrights, recipes, trade secrets, know-how, procedures, and processes, among other things, which are referred to herein, collectively, as the “Potato Corner Intellectual Property and Proprietary Information.”

As explained herein, with this letter (“Termination Letter” or “Termination”), Shakey's Pizza Ventures, Inc. (“SPAVID”) hereby officially terminates any license held by PCJV USA, LLC (“PCJV”) and PCI Trading, LLC (“PCIT”) to use any Potato Corner Intellectual Property and Proprietary Information, effective immediately. This termination is based on your refusal to negotiate reasonable terms for that license, and your having effectively ignored the negotiation for a year. It has always been our goal to develop a partnership with you and empower you to help Potato Corner expand and thrive in the US, but you have refused to negotiate reasonable terms and have ignored the negotiation for nearly a year. Please note that we are very aware of the fact that there are third party franchisees whose rights derive from PCJV's rights, and who will thus be affected, through no fault of their own, by the Termination of their own license rights that you have now caused. As set forth in this letter, we have implemented a process by which we will endeavor to minimize, if not eliminate, disruption to the operations of these franchisees who are not at fault for this Termination; a process that will include a grace period during which we will negotiate terms for a temporary direct license with each of them, using (below market) terms, which we are confident will be mutually beneficial for them and for SPAVID.

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As we have explained and communicated to you before, in 2022, SPAVI acquired from Cinco Corporation and its affiliates all Potato Corner Intellectual Property and Proprietary Information used throughout the world. As a part of the global network of Potato Corner outlets, then, all of the Potato Corner Intellectual Property and Proprietary Information used by PCJV and/or PCIT – as well as any other entity or person with whom PCJV and/or PCIT has licensed that same Potato Corner Intellectual Property and Proprietary Information, including franchisees (collectively, the “US Potato Corner Licensees”) – is now owned by SPAVI. This is an extremely important asset for which our shareholders expect and are entitled to receive immense value.

Upon acquisition of the Potato Corner Intellectual Property and Proprietary Information, SPAVI investigated the state of the license upon which the US Potato Corner Licensees were and are using Potato Corner Intellectual Property and Proprietary Information. The only “agreement” ever identified by you as constituting the license agreement for PCJV and PCIT’s use of these assets is an unsigned, illusory, and incomplete draft purportedly dated October 1, 2010. Indeed, that document fails to provide for any consideration to be paid to SPAVI (or its predecessor) for the license and contains a note in the consideration section of that document confirming that it is a draft. Putting aside the troubling fact that PCJV announces, annually, in Franchise Disclosure Document (“FDD”) filings, that its legal right to use Potato Corner Intellectual Property and Proprietary Information arises from that unsigned, draft, and illusory “agreement,” for the purposes of this Termination Letter, all that needs to be said is that this is not a license agreement.

Without that document, all we have been able to find are “agreements to agree” on a license contained in a “Joint Venture Agreement” (“JVA”), which was subsequently amended without revising the agreement to agree on a license agreement. These terms contained in the agreement to agree do not constitute a license agreement. Even if they did, the agreements to agree, create, at best, an at-will license for use of the Potato Corner Intellectual Property and Proprietary Information. It is our further understanding that, since 2018, Cinco was prevented from forcing PCJV to negotiate a formal written license pursuant to these agreements to agree, given various orders of a Court in now-dismissed litigation between PCJV and Cinco.

Given the above, then, and again, at best, PCJV and PCIT possess a revocable-at-will license to use Potato Corner Intellectual Property and Proprietary Information. As explained herein, the license to use Potato Corner Intellectual Property and Proprietary Information is hereby terminated immediately upon receipt of this letter.

Below, we explain the basis for this termination, and, at the conclusion, discuss the next steps that will be required for (1) immediate cessation of all Potato Corner Intellectual Property and Proprietary Information by PCJV, PCIT, as well as all Potato Corner outlets operated by any entity you own or control; (2) you to satisfy our expectation that you voluntarily and properly inform and advise all US Potato Corner franchisees and operators of this development and for

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those not controlled by you, advise them of the short term direct license opportunity we are offering to continue doing business with SPAVI and be a part of a thriving SPAVI Potato Corner family; and (3) the commencement of the process by which PCJV, PCIT and all Potato Corner outlets owned or operated by any entity you own or control to release to SPAVI all proprietary, confidential, trade secret information, as well as the transfer of the potatocornerus.com and other related domains and social media accounts.

The basis for this Termination Letter is as follows.

Beginning in 2022, the Chief Operating Officer of Potato Corner (Joey Alvero), the SPAVI Group Director for International (Yiow Leong Tan), and I (as President and Chief Executive Officer of SPAVI) have attempted in good faith to negotiate with you the license for use of all Potato Corner Intellectual Property and Proprietary Information between SPAVI and all US Potato Corner Licensees. At all times our negotiating stance has been focused on helping you, PCJV, and PCIT succeed and grow. We have offered you our resources and experience and listened to, and considered, your needs and expectations, and frustrations, and have discussed with you our desire to remove all roadblocks from a truly exciting future for Potato Corner. And we have done so while agreeing to below market terms to back up our desire to assist the United States Potato Corner operations. We have also always been very clear about our requirements, including the obvious one: any deal we strike has to be commercially reasonable and provide value for our shareholders.

Despite these efforts from the highest echelon of SPAVI – including our concessions, immediate and personal attention (including meeting you personally in the United States to negotiate), and patience – we have been met by you (acting on behalf of PCJV and PCIT) with unreasonable demands and a refusal to engage the negotiation. After our July 12, 2023 requests for information from you (requested by us to understand the basis for your commercially unreasonable license demands) were ignored by you for half a year, we had to push you to get this information, which we only partially received on February 17, 2024. I followed up with a polite email on February 27, 2024 asking for further information – an email that you ignored entirely. Three months have elapsed since my February 27, 2024 email, and we have heard nothing from you whatsoever. You have ignored us completely. And yet, every day, each of the US Potato Corner Licensees continue to use Potato Corner Intellectual Property and Proprietary Information without paying a single penny to SPAVI. At a minimum, we would have expected, as a show of good faith, that PCJV would at least pay the license fee at the rate you were demanding, even though SPAVI rejected that rate as too low. As such, SPAVI is now two years into owning this asset that has been used throughout the United States and has not been paid a cent. This is unacceptable.

Even if you had not abandoned the negotiation – a conclusion that would be reasonable given your utter silence for three months – this negotiating tactic employed by you to issue

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unreasonable and commercially unviable demands that cannot be explained or justified as well as to ignore or unreasonably delay responding to our requests to continue negotiating, all while PCJV, PCIT, and all other US Potato Corner Licensees reap daily benefits from this asset – has led us to conclude that we have exhausted all efforts to negotiate a license and that you, PCIV, and PCIT do not intend to negotiate in good faith.

Although you have effectively abandoned the negotiations, we now confirm that the negotiations have terminated and have failed to achieve a consummated license for the US Potato Corner Licenses to legally use any and all Potato Corner Intellectual Property and Proprietary Information, **effective immediately.**

As a result of this Termination, we expect, and demand the following.

First, and foremost, we demand that PCJV and PCIT – and all other entities owned or controlled or managed by you, Guy Koren – cease and desist, immediately, all use, whether direct or indirect, of any Potato Corner Intellectual Property and Proprietary Information in all aspects of their operations. This group includes all “Affiliate Companies,” “Affiliate Owned Restaurants,” NKM, and the Downey Store, as described in PCJV’s FDDs. This immediate cessation of all use of any Potato Corner Intellectual Property and Proprietary Information includes everything from the obvious – all Potato Corner outlets within this group must cease operations immediately – as well as to uses of this intellectual property online, on websites, social media accounts, letterhead, emails, and any other medium or manner in which such Potato Corner Intellectual Property and Proprietary Information is used. We can negotiate transfers of social media accounts as well as the potatocornerusa.com URL (a transfer that you would be well advised to negotiate to avoid claims of cybersquatting), however, for now, all such uses of Potato Corner Intellectual Property and Proprietary Information must cease immediately. **As part of this cease-and-desist demand, we further demand that, no later than 12:00 p.m. Pacific Standard Time today, May 31, 2024, you confirm (1) receipt of this Termination Letter and (2) that you and each of the persons, entities, and outlets described in this paragraph will comply immediately, effective today, May 31, 2024.** This confirmation must be delivered, by email, to Michael Murphy and Kenneth Hsu at Ervin, Cohen & Jessup (mmurphy@ecjlaw.com and khsu@ecjlaw.com), with a copy to Yiow Leong Tan. Please do not ignore this demand to confirm by 12:00 p.m. May 31, 2024 receipt of the Termination and confirmation of compliance, as the failure to respond by that time will be viewed as a repudiation of this cease-and-desist demand.

Please note, the confirmation we are demanding above may not be provided in the form of a request to negotiate a license between SPAVI and PCJV/PCIT further. That negotiation is closed, and we will no longer entertain discussions regarding license terms with PCJV and PCIT. The only negotiation SPAVI is willing to entertain is either (1) the sale of PCJV and PCIT to SPAVI; or (2) license terms for your affiliate companies operating Potato Corner outlets, so long as such terms include payment of gross receipts increasing from 2% in the first year to 4% at year four,

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for the remainder of the period which will be 15 years. Those royalty rates are not negotiable. Should you wish to pursue those licenses for your affiliates, in addition to confirming receipt and compliance with this Termination, advise us by 12:00 p.m. today, May 31, 2024 (PST) that you agree to those royalty rates and a term of 15 years, and we can commence negotiating the other standard and basic terms so as to complete those written license agreements. Should you wish to discuss the sale of PCJV and PCIT outright, please so advise by the deadline set forth in the preceding paragraph, with the inclusion of a proposed selling price for us to consider.

Second, although we must, and will, protect all Potato Corner Intellectual Property and Proprietary Information to the maximum extent possible, we intend to do so in a manner that protects, minimizes, and, if possible, eliminates disruption to all other persons, franchisees, or entities that are not owned, controlled or managed by you (*i.e.* not “Affiliate Companies,” “Affiliate Owned Restaurants,” NKM, nor the Downey Store, as described in PCJV’s FDDs) and that have entered into any agreement with PCJV and PCIT for the use of Potato Corner Intellectual Property and Proprietary Information, whether as franchisees or otherwise. Accordingly, you must advise each of these entities or persons by the close of business today, May 31, 2024 (PST) as to the Termination of PCJV and PCIT’s license, and advise them as to a grace period that we will extend to those stores only – allowing them to continue using Potato Corner Intellectual Property and Proprietary Information for two weeks (until June 12, 2024) – a period that will be used to negotiate written terms of a temporary direct license with SPAVI, so as to minimize disruption to their business. Please advise those operators, that, to take advantage of this grace period, they must (1) contact Yiom Leong Tan (whose email you have) by email, by the close of business on May 31, 2024 to confirm they wish to take advantage of this grace period, and (2) comply with all aspects of their franchise agreement with PCJV during that grace period.

Third, we demand that you provide us, by 12:00 p.m. Pacific Standard Time today, May 31, 2024, with a list of all entities and persons using any Potato Corner Intellectual Property and Proprietary Information by way of any agreement with PCJV or PCIT or any other US Potato Corner Licensee – a list that shall include up to date contact information of any persons responsible for each such operation using Potato Corner Intellectual Property and Proprietary Information. The purpose of this is to, among other things, understand the universe of US Potato Corner Licensees, know how to contact them immediately, and for those referenced in the preceding paragraph, determine how best to embrace them in the SPAVI Potato Corner family, and assist them during this interim period to minimize disruption. Please note, our intent to offer a grace period (as described in the preceding paragraph) and negotiate temporary licenses to these Potato Corner outlets not operated by entities you own or control is not punitive, but, instead, is based on the fact that you have effectively repudiated the terms we will be offering these other outlets, as a result of your commercially unreasonable terms and bad faith negotiating tactics described above.

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Fourth, by 1:00 pm. Saturday, June 1, 2024, we demand delivery to Yiow Leong Tan – or between our counsel – of all lists of all Potato Corner Intellectual Property and Proprietary Information used by PCJV, PCIT, and or any other entity or person that uses such Potato Corner Intellectual Property and Proprietary Information by way of the license terminated herein. This delivery must include any and all lists documenting what Potato Corner Intellectual Property and Proprietary Information has been used by PCJV and/or PCIT or licensed by PCJV or PCIT to any entity or person (whether stores you operated or otherwise) as well as any information provided to PCJV or PCIT by any person documenting actual use of any Potato Corner Intellectual Property and Proprietary Information by any such entity or person.

Fifth, and finally, we demand that you, PCJV, PCIT, and all of the entities you own, or control preserve all emails, letters, documents, accounting records, text messages – any and all documents or records whatsoever – related in any way to Potato Corner. This will allow us to ensure that if we have questions about the uses of Potato Corner Intellectual Property and Proprietary Information, all data relating to this information can be accessed.

Please note, the demands made herein are not the entirety of the demands that we will be making, or efforts we expect you, PCJV, and PCIT (as well as your own stores) to be exerting, as we proceed through this regrettable, disappointing, and unfortunate unwinding. After our meeting a year ago in Los Angeles, I was truly hopeful that you saw the benefits of proceeding with Potato Corner under SPAVI, and that you understood our requirements to achieve an arrangement between our groups that will be mutually viable. I even approved concessions that were way below what SPAVI was expecting to receive just to allow this to be a continuing partnership.

Now that a year has passed since we met (and nearly a year since your proposed terms that we rejected), no progress has been made, and you either abandoned the negotiation or ignored us entirely. We find this totally unacceptable, and, as such, we now deem the prior negotiation closed and must move forward with the initial steps in the new direction we require, as set forth in this Termination Letter.



Vic Gregorio
CEO
Shakey's Pizza Asia Ventures, Inc.

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